

[Skip to Main Content](#) [Logout](#) [My Account](#) [Search Menu](#) [New Civil Search](#) [Refine Search](#) [Back](#)Location : All Courts [Help](#)**REGISTER OF ACTIONS**

CASE No. 2015DCV3420

ESTHER ANTONINE vs. PILOT TRAVEL CENTERS, LLC

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§Case Type: **Wrongful Termination**Date Filed: **10/08/2015**Location: **County Court at Law 3**

PARTY INFORMATION

		Lead Attorneys
Defendant	PILOT TRAVEL CENTERS, LLC <i>Doing Business As</i> PILOT FLYING J	
Plaintiff	ANTONINE, ESTHER	DENNIS RICHARD <i>Retained</i> 210-314-5688(W)

EVENTS & ORDERS OF THE COURT

	OTHER EVENTS AND HEARINGS		
10/08/2015	Original Petition (OCA)	Doc ID# 1	
10/08/2015	E-File Event Original Filing		
10/08/2015	Case Information Sheet	Doc ID# 2	
10/15/2015	Citation		
	PILOT TRAVEL CENTERS, LLC	Served	10/22/2015
		Returned	11/05/2015
11/09/2015	Answer	Doc ID# 3	

ESTHER ANTONINE,
Plaintiff,

IN THE DISTRICT COURT

VS:

JUDICIAL DISTRICT

**PILOT TRAVEL CENTERS, LLC
d/b/a PILOT FLYING J
Defendant.**

EL PASO COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, ESTHER ANTONINE, hereinafter referred to as Plaintiff or "Antonine", complaining of and about PILOT TRAVEL CENTERS, LLC d/b/a PILOT FLYING J, hereinafter referred to as Defendant or "Pilot", and for cause of action files this her Plaintiff's Original Petition, showing to the Court as follows:

I. PARTIES AND SERVICE

1. Plaintiff, Esther Antonine, is a citizen of the United States and the State of Texas and resides in El Paso County, Texas.
2. Defendant, Pilot, is a Limited Liability Company, doing business in El Paso, El Paso County, Texas, and may be served via certified mail, return receipt requested on its registered agent, C.T. Corporation System, located at 800 S. Gay St., Suite 2021, Knoxville, Tennessee 37929.
3. This is a Level III case.

II.
JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter and the parties to this case and all conditions precedent to the filing of this suit have been met and venue properly lies in El Paso County, Texas. Plaintiff has dually filed her charge of discrimination with both the Texas Workforce Commission-Civil Rights Division and the Equal Employment Opportunity Commission. All required administrative remedies have been exhausted and all conditions precedent have been satisfied. Plaintiff further avers that this case and this charge of discrimination have been brought in a timely manner. This Court has jurisdiction pursuant to Section 21.054 of the Texas Labor Code.

III.
JURY DEMAND

5. Plaintiff is requesting trial by jury and will tender the statutory jury fee.

IV.
AGENCY

6. Whenever in this petition it is alleged that the Defendant did any act or thing, it is meant that Defendant's officers, agents, servants, employees or representatives did such act or thing and that at the time such act or thing was done, it was done with the full authorization or ratification of or by Defendant and was done in the normal and routine course and scope of employment of Defendant's officers, agents, servants, employees or representatives.

**V.
FACTS**

7. On or about the 5th day of September, 2014, Plaintiff was in the cooler of the Flying J Travel Plaza located at 3001 Mountain Pass Blvd in Anthony, Texas. Antonine was sitting on the floor stocking product when Assistant Manager, Jessie Lopez, approached Plaintiff from behind and pulled her head into Lopez' crotch. Lopez stated: "suck my cock, you know you want to". Lopez had a history of engaging in such perversion and Plaintiff and other female employees had complained about this outrageous conduct. Specific complaints had been communicated to the General Manager, Dolores Moldenhauer. Unfortunately, nothing was done to stop Lopez. Antonine went beyond the General Manager and complained to the District Manager, Rick Fitzgerald. Lopez was removed from the store. Beginning September 22, 2014 and continuing until her termination from employment, Moldenhauer has retaliated against Antonine for opposing sexual harassment by Lopez. Moldenhauer subjected Plaintiff to write-ups for poor performance that were not justified. The ultimate act of retaliation was Antonine's termination on June 12, 2015. This case is founded upon Defendant's violations of Sections 21.051 and 21.055 of the Texas Labor Code. Specifically, Pilot violated Section 21.051 of the Texas Labor Code by discriminating against Antonine because of her sex, female and subjecting Plaintiff to sexual harassment. Defendant violated Section 21.055 by retaliating against Plaintiff for opposing discrimination based upon her sex and sexual harassment.

8. On or about June 1, 2015, Lopez submitted an application to Pilot to be rehired at the store where Antonine was an Assistant Manager. Plaintiff was horrified that Lopez, through the efforts of Moldenhauer, would be allowed to return and continue his sexual harassment. Antonine was terminated on June 12, 2015 for

allegedly showing company information to a non-employee. Plaintiff had simply shown a work schedule that denoted "New Guy" to a police officer and asked for his opinion about what she should do if Lopez was the "New Guy". Plaintiff had seen Lopez' application and she was unaware of any other males applying in the early June time frame. Moldenhauer's stated reason for termination was a pretext for the real reason which was retaliation for Antonine opposing Lopez' sexual harassment.

VI. **DAMAGES**

9. By reason of Defendant's acts and conduct, as herein alleged, Plaintiff has been damaged as follows:

1. Compensatory damages (including emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-economic damages) allowed under the Texas Labor Code.
2. Economic damages in the form of lost back pay and lost fringe benefits in the past. Economic damages in the form of lost wages and fringe benefits that will, in reasonable probability, be sustained in the future.
3. Punitive damages for Defendant engaging in unlawful intentional employment practices and engaging in discriminatory practices with reckless indifference to the state protected rights of an aggrieved individual, Plaintiff Esther Antonine.
4. Attorney's fees pursuant to the Texas Labor Code.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that upon final trial of this cause, Plaintiff has and recovers of and from the Defendant actual damages and punitive damages in a sum within the jurisdictional limits of this Court, pre-and post-judgment interest as allowed by law, attorney's fees, costs of Court, and for such other and further relief, both general and special, at law or in equity, to which Plaintiff may show herself justly entitled.

Respectfully Submitted,



kennard
blankenship
robinson P.C.

Dennis L. Richard
Texas Bar No. 16842600
85 N.E. Loop 410, Ste. 603
San Antonio, Texas 78216
Main: (210) 314-5688
Fax: (210) 314-5687



**Service of Process
Transmittal**

10/22/2015

CT Log Number 528033538

TO: Kristin K Seabrook, Attorney
Pilot Travel Centers LLC
5508 Lonas Dr
Knoxville, TN 37909-3221

RE: Process Served in Tennessee

FOR: Pilot Travel Centers LLC (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: ESTHER ANTONINE, Pltf. vs. PILOT TRAWL CENTERS, LLC, etc., Dft.

DOCUMENT(S) SERVED: Notice(s), Return(s), Original Petition

COURT/AGENCY: El Paso County - Judicial District Court - Texas, TX
Case # None Specified

NATURE OF ACTION: Employee Litigation - Wrongful Termination - 06/12/2015

ON WHOM PROCESS WAS SERVED: C T Corporation System, Knoxville, TN

DATE AND HOUR OF SERVICE: By Certified Mail on 10/22/2015 postmarked on 10/16/2015

JURISDICTION SERVED : Tennessee

APPEARANCE OR ANSWER DUE: By 10:00 a.m. on the Monday next following the expiration of 20 days after service

ATTORNEY(S) / SENDER(S): Dennis L. Richard
Kennard Blankenship Robinson P.C.
85 N.E. Loop 410, Ste. 603
San Antonio, TX 78216
(210) 314-5688

ACTION ITEMS: CT has retained the current log, Retain Date: 10/23/2015, Expected Purge Date: 10/28/2015

Image SOP

Email Notification, M Steenrod Steenrod@PilotTravelCenters.com

Email Notification, Kristin K Seabrook kristin.seabrook@pilottravelcenters.com

SIGNED: C T Corporation System

ADDRESS: 800 S. Gay Street
Suite 2021
Knoxville, TN 37929-9710

TELEPHONE: 216-802-2121



NORMA L FAVELA
DISTRICT CLERK
COUNTY COURTHOUSE, RM 103
500 E. SAN ANTONIO
EL PASO, TX 79901

Case 3:15-cv-00329-DB Document 1-1 Filed 11/10/15 Page 8 of 14

CERTIFIED MAIL



7112 4369 4680 3256 2619

FIRST-CLASS



US POSTAGE

\$06.96⁰



OCT 16 2015
ZIP 79925
0801 1052730

PILOT TRAVEL CENTERS, LLC
d/b/a PILOT FLYING J
C.T. CORPORATION SYSTEM
800 S. GAY ST., SUITE 2021
KNOXVILLE, TN 37929

3792939710 0002



THE STATE OF TEXAS

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO: PILOT TRAVEL CENTERS, LLC d/b/a PILOT FLYING J, who may be served with process on its registered agent, **C.T. CORPORATION SYSTEM at 800 S. GAY ST., SUITE 2021, KNOXVILLE, TENNESSEE 37929**

Greetings:

You are hereby commanded to appear by filing a written answer to the Plaintiff's Original Petition at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the **Honorable County Court at Law Number 3**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Original Petition was filed in said court on the 8th day of October, 2015 by Attorney at Law **DENNIS L. RICHARD**, 85 N. E. LOOP 410, STE. 603, SAN ANTONIO, TX 78216 in this case numbered **2015DCV3420** on the docket of said court, and styled:

ESTHER ANTONINE

vs.

PILOT TRAVEL CENTER, LLC d/b/a PILOT FLYING J

The nature of Plaintiff's demand is fully shown by a true and correct copy of the Plaintiff's Original Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 15th day of October, 2015

Attest: **NORMA L. FAVELA**, District Clerk, El Paso County, Texas

CLERK OF THE COURT
NORMA L. FAVELA

District Clerk

El Paso County Courthouse
500 East San Antonio Avenue Room 100
El Paso Texas, 79901



By Edith Miledi, Deputy

ATTACH
RETURN RECEIPTS
WITH

ADDRESSEE'S SIGNATURE

Rule 106 (a) (2) the citation shall be served by mailing to the defendant by Certified Mail Return receipt requested, a true copy of the citation. Sec. 17.027 Rules of Civil Practice and Remedies Code if not prepared by Clerk of Court.

NAME OF PREPARER _____ TITLE _____
ADDRESS _____
CITY _____ STATE _____ ZIP _____

CERTIFICATE OF DELIVERY BY MAIL

I hereby certify that on this the 15th day of October, 2015 at 3:00 PM, I mailed to **PILOT TRAVEL CENTERS, LLC d/b/a PILOT FLYING J** through its registered agent **C.T. CORPORATION SYSTEM at 800 S. GAY ST., SUITE 2021, KNOXVILLE, TENNESSEE 37929**

Defendant(s) by registered mail or certified mail with delivery restricted to addressee only, return receipt requested, a true copy of this citation with a copy of the Plaintiff's Original Petition attached thereto.

Edith Miledi
COURT CLERK- TITLE

RETURN OF SERVICE

Delivery was completed on _____, delivered to _____
_____ as evidence by Domestic Return Receipt PS Form 3811
attached hereto.

The described documents were not delivered to the named recipient. The certified mail envelope was returned
undelivered marked _____.

This forwarding address was provided: _____

ARTICLE NO. : 7112 4369 4680 3266 2619

El Paso County, Texas

SENT TO: PILOT TRAVEL CENTERS, LLC d/b/a
PILOT FLYING J through its registered agent C.T.
CORPORATION SYSTEM at 800 S. GAY ST., SUITE
2021, KNOXVILLE, TENNESSEE 37929

By: _____
Deputy District Clerk
OR

POSTAGE: \$0.37
FEE: \$2.30
RETURN RECEIPT FEE: \$1.75

Name of Authorized Person

By: _____

DATE SENT: 10/15/2015

SENDER'S NAME: Edith Miledi

THIS ENVELOPE CONTAINS: Plaintiff's Original
Petition & Citation

VERIFICATION BY AUTHORIZED PERSON

State of Texas

County of El Paso

Before me, a notary public, on this day personally appeared _____, known to me to be the person
whose name is subscribed to the foregoing Return of Service, and being by me first duly sworn, declared, "I am
disinterested party qualified to make an oath of that fact and statements contained in the Return of Service and true and
correct."

Subscribed and sworn to be on this _____ day
of _____.

Notary Public, State of _____

My commission expires: _____

CAUSE NO. 2015-DCV-3420

ESTHER ANTONINE,

Plaintiff,

v.

PILOT TRAVEL CENDERS, LLC

d/b/a PILOT FLYING J,

Defendant.

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IN COUNTY COURT AT LAW 3

EL PASO COUNTY, TEXAS

**DEFENDANT'S ANSWER AND DEFENSES
TO PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF THE COUNTY COURT:

COMES NOW, Pilot Travel Centers, LLC, Defendant in the above-styled and numbered cause, and files this Answer to Plaintiff's Original Petition, and in support thereof, would respectfully show the Court as follows:

**I.
GENERAL DENIAL**

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies the allegations contained in Plaintiff's Original Petition and demands strict proof thereof. Defendant reserves the right to supplement and/or amend this pleading at any time consistent with the Texas Rules of Civil Procedure.

**II.
AFFIRMATIVE AND OTHER DEFENSES**

Additionally, without admitting that it carries the burden of proof as to any of the issues raised thereby, Defendant asserts the following separate and distinct defenses to Plaintiff's Original Petition and each purported cause of action therein, and prays for judgment as set forth below:

1. Plaintiff has failed to take reasonable steps to mitigate her damages, if any. Accordingly, Plaintiff is barred from recovering any damages, or any recovery of damages must be reduced.

2. Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

3. Plaintiff's claims against Defendant are barred, in whole or in part, because Plaintiff's alleged harm was caused by other parties' and/or Plaintiff's own negligence, recklessness, and/or intentional wrongdoing in association with the transactions and events alleged in the Petition. Accordingly, Plaintiff is barred from receiving any recovery from Defendant, or any recovery should be proportionately reduced.

4. Any adverse action allegedly suffered by Plaintiff was based on legitimate, non-discriminatory, and non-retaliatory reasons.

5. Any actions taken by Defendant with respect to Plaintiff were taken in good faith and would have been taken regardless of Plaintiff's engaging in any protected activity, and regardless of her allegedly making a sexual harassment complaint.

6. Defendant has in place clear and well-disseminated policies against discrimination and retaliation and a reasonable and available procedure for handling complaints thereof, which provides for prompt and effective responsive action. To the extent Plaintiff unreasonably failed to take advantage of the preventive or corrective opportunities provided by Defendant, or to otherwise avoid harm, Plaintiff's claims of alleged discrimination and retaliation are barred.

7. Defendant hereby pleads and invokes the application of the limitations placed on awards of exemplary damages by Chapter 41 of the Texas Civil Practice & Remedies Code, and by the constitutions of both Texas and the United States.

8. Defendant reserves the right to assert additional affirmative defenses as they may become apparent during the course of investigation and discovery in this case.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully requests that Plaintiff take nothing by way of her claims asserted in her Original Petition and that Defendant recover its costs expended herein. Defendant also requests any and all further relief, at law or in equity, to which Defendant may show itself to be justly entitled.

Respectfully submitted,

/s/ Christopher C. Wike
Bruce A. Griggs
Texas Bar No. 08487700
bruce.griggs@ogletreedeakins.com
Christopher C. Wike
Texas Bar No. 24042155
chris.wike@ogletreedeakins.com
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
301 Congress Avenue, Suite 1150
Austin, Texas 78701
Phone: 512.344.4700
Fax: 512.344.4701

**ATTORNEYS FOR DEFENDANT,
PILOT TRAVEL CENTERS, LLC**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served via facsimile and first class mail, this 9th day of November, 2015, upon the following:

Dennis L. Richard
KENNARD BLANKENSHIP ROBINSON, P.C.
85 Northeast Loop 410, Suite 603
San Antonio, Texas 78216
210.314.5687 fax

/s/ Christopher C. Wike
CHRISTOPHER C. WIKE

22748907.1